

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO.773/2024

Pramod Kisan Gadge

Vs.

The State of Maharashtra, thr. P.S.O., P.S. Mukutban, Tq. Zarijamni, Dist. Yavatmal

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri M.V. Acharya, Advocate for applicant
Ms M.A. Barabde, APP for non-applicant/State

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 20/09/2024

The applicant came to be arrested in connection with Crime No.99/2024, registered with Police Station, Mukutban, Tah. Zarijamni, District Yavatmal, for the offence punishable under Sections 243, 489-B, 489-C of the Indian Penal Code.

2. The crime is registered on the basis of the report lodged by one Deepak Tade, alleging that on 04/03/2024, they have received a secret information that one person attempted to use forged counterfeit currency notes at Mouza, Ghonsa. As per the secret information, the police staff conducted the raid in presence of two panch witnesses at bus stand, Ghonsa. The applicant was trapped red handed while tendering counterfeit currency note of Rs.100/- to the owner of the Pan Shop. The informant had carried out personal search of the present applicant and found that the applicant is carrying forged currency notes which were 36 in number in denomination of Rs.100-

200 and 500, total amounting worth Rs.5700/-. The police staff seized the said counterfeit currency notes as per seizure panchanama. On the basis of said, police have registered the crime against the present applicant.

3. Heard learned Counsel for the applicant and submitted that the applicant is layman and he was not aware about the genuine notes and counterfeit notes. He is not the manufacturer or he has not circulated the said currency notes, but he has received the said currency notes and he has used the same. As far as the circulation by him is concerned, there is no material collected during the investigation. In view of that no *prima facie* case is made out against the present applicant and, therefore, he be released on bail.

4. Learned APP for the State strongly opposed the said application and invited my attention towards the statement of one Ramkishan Bhimrao Kodape, who stated that the applicant has handed over Rs.500/- currency note to him and asked him to bring the meat and he has handed over the said currency note to the meat owner, but he has denied to accept the same being it is counterfeit currency note. Thus, the applicant was knowing that it is a counterfeit currency note then also he has attempted to use it by handing over to Pan Shop. Thus the material on record collected during investigation is sufficient to show that he was having knowledge about counterfeit

notes. In view of that, the application deserves to be rejected.

5. After hearing the learned Counsel for the applicant and learned APP for the State, perused the investigating papers from which, it reveals that during investigation, the present applicant was carrying the counterfeit currency notes on his personal search, in all 36 counterfeit currency notes found in his possession and, therefore, he was arrested. As far as application under Section 489-B is concerned, the ingredient that knowing or having reason to believe the currency notes or bank notes are forged or counterfeit is to be established without the aforementioned *mens rea* selling, buying or receiving from another person or otherwise trafficking in or using as a genuine forged or counterfeit currency notes or bank notes is not enough to constitute the offence under Section 489-B of the Indian Penal Code. So also possessing or even intending to use any forged or counterfeit notes or the bank notes is not sufficient to make out the case under Section 489-C in absence of *mens rea*. As far as the present applicant is concerned, admittedly he was found in possession of the said currency notes, but the investigating papers, which are collected, shows that he has given it to one of the witness used it and thereafter, he has handed over the same to the pan stall owner. Thus considering the same, as far as his *mens rea* is concerned, there is no material to show that he was

having knowledge or having reason to believe that the currency notes or the banks notes are forged one. Even assuming that he was having knowledge, now investigation is already completed. Charge sheet is already filed. There is no criminal antecedents against the present applicant. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass the following order:

ORDER

- i) The application is allowed.
- ii) The applicant- Pramod Kisan Gadage, be released on bail in connection with Crime No.99/2024, registered with Police Station, Mukutban, Tah. Zarijamni, District Yavatmal, for the offence punishable under Sections 243, 489-B, 489-C of the Indian Penal Code, on executing PR bond of Rs.25,000/- with one surety in the like amount.
- iii) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the present case.
- iv) The applicant shall attend the proceedings before the learned trial Court without seeking any exemption unless there are exceptional circumstances.

6. The present application is disposed of.

JUDGE